

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ENRIQUE AGUILAR-VALENCIA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. C18-0359-JCC

ORDER

This matter comes before the Court on Petitioner's 28 U.S.C. § 2255 motion to vacate or correct his sentence (Dkt. No. 1) and motion for appointment of counsel (Dkt. No. 2). Petitioner pled guilty to one count of conspiracy to distribute controlled substances and one count of conspiracy to commit money laundering. *See United States v. Enrique Aguilar-Valencia*, Case No. CR15-0202-JCC, Dkt. No. 292 (W.D. Wash. Dec. 12, 2016). On March 21, 2017, he was sentenced by the Court to 144 months imprisonment. *Id.* at Dkt. No. 317.

Before directing service and answer to a habeas corpus petition, the Court must determine whether the motion, the files, and the records of the case "conclusively show that the prisoner is entitled to no relief." 28 U.S.C. § 2255(b). The Court has conducted such a preliminary review, and the record does not conclusively show that the prisoner is entitled to no relief.

The Court also GRANTS Petitioner's motion for appointment of counsel (Dkt. No. 2). While there is no general right to have counsel appointed in cases brought under 28 U.S.C.

§ 2255 unless an evidentiary hearing is required, *see Terrovona v. Kincheloe*, 852 F.2d 424, 429 (9th Cir. 1988), the Court may exercise its discretion to appoint counsel for a financially eligible individual where the “interests of justice so require.” 18 U.S.C. § 3006A. Considering the record, the Court finds it appropriate to appoint counsel at this time.

Accordingly, the Court ORDERS as follows:

(1) The Clerk shall direct a copy of this order to Petitioner.

(2) If not previously accomplished, electronic posting of this order and petition shall effect service upon the United States Attorney of copies of the 2255 motion and of all documents in support thereof.

(3) Within forty-five days after such service, the United States shall file and serve an Answer in accordance with Rule 5 of the Rules Governing Section 2255 Cases in United States District Courts. As part of such Answer, the United States should state its position as to whether an evidentiary hearing is necessary, whether there is any issue as to abuse or delay under Rule 9, and whether Petitioner’s motion is barred by the statute of limitations.

(4) On the face of the Answer, the United States shall note the Answer for consideration on the fourth Friday after it is filed, and the Clerk shall note the Answer accordingly. Petitioner may file and serve a Reply to the Answer no later than that noting date.

(5) The Clerk is DIRECTED to refer this matter to the Criminal Justice Act Panel Coordinator for appointment of counsel.

DATED this 14th day of March 2018.



John C. Coughenour
UNITED STATES DISTRICT JUDGE